

rights, oath, duty, seal, and edicts." He does not think ill of the emperor. He is, he believes, the victim of a set of papist scoundrels, especially of that supreme scoundrel, the pope. " If they will have it so," he concludes grimly, " their blood be on their own heads. I am guiltless. I have done my part."

This angry note of defiance is the note of the revolutionary Luther of the first years of the struggle against Antichrist. For God and conscience men may fight as well as suffer. It was the only doctrine that could save the Reformation, as history was yet to demonstrate in every land where conscience and convention clashed. In the present instance, the Saxon jurists came forward with a working theory, whereby resistance to emperor and Diet was shown to be no rebellion, but the vindication of constitutional rights. The Saxon jurists did not base the opposition to established authority on the rights of conscience. They appealed to constitutional law in order to save appearances, and afford a valve for susceptible consciences like those of Luther and the elector. The appeal might be disputable, and it would have been more to the point to invoke the demands of conscience rather than the questionable witness of the imperial constitution. The emperor, contended the Saxon jurists, is not the sovereign head of the empire. His power is limited by that of the princes and the cities, as that of the Roman consul was limited by the Senate, or that of the Doge of Venice is limited by the Great Council. Formally, the Saxon interpretation of the constitution was incorrect. The emperor was something more than a Venetian Doge or a Roman consul. Practically, it expressed the actual state of things. The Imperial Government, or Reichs-regiment, was a mere cipher as against the territorial magnates. Even the Diet, while it exercised some of the functions, did not in reality possess the power of a Parliament. It might enact, but with a weak central government its enactments had just as much or as little binding force as the more powerful members of the empire chose to ascribe to them. Practically, therefore, if not formally, the contention which now did duty for constitutional law was not far beyond the mark, and the Lutheran Reformation, in developing the doctrine of the rights of the princes, at the expense of the emperor, was only following the law of political development in Germany. The